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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of:

Compliance with applicable voluntary)
 band plans in the Amateur Radio Service) RM 9259

REPLY COMMENTS IN OPPOSITION TO ARRL REQUEST

The ARRL's comments and opinion that the FCC was improper to deny their request for summary action and designate the request in a rule making procedure is indicative of their disdain for allowing anyone to question the ARRL's authority, motives and actions. In fact, the latest ARRL request is only part of a series of requests and actions by ARRL to establish itself as the police, prosecutor, judge, jury and appellate court for amateur radio matters. The ARRL opposes public comment on this matter because it knows that its membership and *the Amateur Radio Community as a whole are fully NOT IN FAVOR of this or any other recent ARRL requests that support its NFCC effort.*

ARRL's STRATEGY TO DECEIVE

Part one of ARRL strategy:

ARRL has in other 1998 proceedings, requested that it be the sole enforcement arm of the United States Government, FCC, in its request that their Official Observer (OO) program be in charge of evidence gathering, prosecution selection and adjudication in matters of Amateur Radio Service (ARS). It was rightly pointed out by comments in that matter, still pending before the commission, that this would subvert the due process of law, bypass the FCC's own administrative procedures, incur unbearable cost on individual amateurs, could be easily being politically controlled and corrupted for the ARRL's own purposes. In that proceeding, ARRL chose not to reply to any of these substantiated statement, and simply passed judgement on the comments as "persons with an ax to grind about ARRL" in order to prevent perjury of itself because the ARRL cannot deny these statements without LYING. As seen in these instant matters, there are serious concerns within the ARS community that the ARRL is engaging in a systematic strategy to place itself as the "God" of ARS and ARS matters.

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Part two of the ARRL strategy to deceive:

ARRL to establish their own adjudication process. [Exhibit C of MISMA comments] The ARRL's own public statement begins with lofty idealism of solving disputes between hams and neighbors, ends with the inclusion of disputes between repeaters a clear support of the tactics and strategy outlined here. Disputes included because they are the only true reason the ARRL has for engaging in such litigious activity, to support its own created and funded NFCC.

Part three of ARRL strategy to deceive:

ARRL's efforts are to diffuse and obfuscate law issues with FCC regulations. ARRL requests that it be the sole determiner of what the rules mean by establishing themselves as the interpreter of "good amateur practice." ARRL senior officials have openly stated at various events that "good amateur practice" means whatever they want it to mean at the time. In other words, it is a useful but an undefinable phrase that can be interpreted in the best minds of the best lawyers to mean whatever the proponent wants it to mean at the time. A catch basin for any political agenda one can imagine. Simply put, a ploy to grant license of action to ARRL at the expense of others.

Part four of ARRL strategy to deceive

ARRL's effort was the selection of individuals and the creation of an entity to serve as the umbrella agency of the ARRL to provide a mechanism for writing new law as the ARRL sees fit to write it, to enforce it and to criminalize those who disagree, and prevent any possible challenge to their decisions. To wit: The National Frequency Coordination Committee, sponsored, funded and created by the ARRL in October of 1995, as an outgrowth of the ARRL sponsored and funded meeting in St. Louis, MO. On the 7th of that month where at ARRL prejudicially excluded those who might oppose the efforts of ARRL. ARRL did so by informing those not chosen that the event was "not about amateur television," that "non FM repeater groups would be wasting their time" "not about digital modes or simplex users." All words spoken by ARRL Senior Staffers, Mendelson, Quiat, Sumner, and MACC president Isley, as they attempted to coup de gras VHF and UHF non FM operations. Yet we know these to be LIES because spectrum management, the underlying effort, is of interest to all license holders.

The ARRL Achilles Heel: failure to accommodate and include:

The ARRL tried but failed to exclude the ham press, Bill Pasternak, WA6ITF of Newslines and Henry Ruh KB9FO then publisher of Amateur Television Quarterly, who proceeded to attend the public meeting and video recorded the entire proceedings and published accounts of those proceedings, earning the ire and irk of the ARRL for exposing the ARRL nefarious actions and beginning a public discussion on the NFCC/SPOC issues, which have led to these instant proceedings. At a lunch meeting of the ARRL staff, plans to control the meeting by having Dick Isley lead the discussion when the group reformed after lunch were openly discussed for the purpose of controlling the outcome to be favorable to the ARRL and [Dick Isley] by controlling the vote process to insure that Dick Isley would be elected President of the newly founded NFCC. I know this to be true because I was with the Messrs. Quiet, Mendelsohn and Sumner the entire time as Mr. Marshal Quiat, attorney and ARRL Director outlined exactly how the afternoon would unfold to achieve their goals. The ARRL cannot dismiss this truth without lying.

The NFCC's own agenda and formation are to provide a mechanism in which and through which the ARRL would become "sole arbiter" "final arbiter" and definer of the rules, band plans and coordination and controller of the ARS. By combining the elements above, with the NFCC, through their hand chosen leader, Dick Isley W9GIG, the ARRL would supplant, suppress and remove the FCC from any

Administrative duties with regard to ARS matters. The ARRL would through simple declaration define new rules for emission, bandplans, coordination, settling of disputers, create kangaroo courts with their own chosen arbitrators, making it financially and politically impossible for any individual to challenge their actions, as they would all be done under the guide of the ARRL's sole definition of whatever "good amateur practice" was at the time and they would implement their decision about who is a frequency coordinator and who is not, what repeaters could and could not operate, what modes and user's groups would or would not have rights to operate, even in omission variance of FCC permitted operation. The ARRL has created a fabric of conspiracy, deceit, lies, obfuscation, and denial in order to accomplish all of these things while trying to innocently appear to be providing simple services to the ARS.

ARRL contends that this is only a FM matter. If this is so, then why has the ARRL refused all requests, public and private, to state that they will protect or respect other mode users in the VHF and UHF frequencies? Because the ARRL is lying. They know the other user groups object to their controlling the bands and coordination, because the ARRL has consistently supported NFCC, its own creation and cannot speak in opposition to it. And it is the written policy of NFCC to promote FM modes at the expense of all other modes.

Why has ARRL chosen to do this?

MONEY AND POLITICAL POWER

It is an undeniable fact that the ARRL has over the past 40 years steadily lost membership as a percentage of all licensed hams. The ARRL has gone from a Corporation providing leadership and international sponsorship of the hobby, and a publication business providing quality books and magazines of interest to the ham hobbyist, to a squalid group of old men, concerned with the very survival of their Corporate profits (while guised as a non profit Corporation). The ARRL has had several recent mailings requests funds for its most basic operations, the protection of the ham frequencies from the interests of others. ARRL publications have failed to provide substantive profits, and there is constant quandary on how to make ARRL profitable in the face of declining sales, warehouses filled with unsold book stocks, and an avalanche of defections and the failure of the massive influx of new hams to endorse and join the ARRL. Faced with its own inevitable demise from its shrinking market (only 1 ham in 5 is a member of ARRL, and the average age of an ARRL member is above 55), and faced with the continued success of rival for-profit publications the ARRL has turned to conspiracy and deceit and has openly lied to its membership, to hams in general and to the FCC in order to gain unfair advantage and control of ham radio revenues, and ham radio politics.

ARRL exists because of its ability to publish books. Its best opportunity to gain any income from the influx of new no-code hams is the sale of repeater directories to these mainly VHF only operating hams. Thus the new hams are the best opportunity ARRL has to make money to stay in business. The ARRL as completely failed to attract these hams to membership, because in large part, ARRL lacks leadership, empathy, understanding and common interest with the new hams. The new hams have not been sold on the ARRL image, or the ARRL politics. And belief is the basis for membership. If you believe the ARRL is going to do something in your favor, you will also likely believe you should support them. But the ARRL has a clear history of doing just the opposite of what the new hams desire. To wit: The ARRL took a poll of its membership (not hams at large) and decided to support morse code as an international requirement for ham operation on HF. Meanwhile, the existence of the hundreds of thousands of no-code license holders clearly shows that they are not motivated by Morse Code and have not moved to higher operating

privileges by taking the time to learn a rote skill. Instead, they have confined themselves by not upgrading their licenses, to VHF and voice, data and visual modes.

The ARRL not being able to shake its primarily age 70+ directorship to move into the modern age of communications, continues to promote CW skills. Thus any possible attraction to the new license holders in other areas, is offset by an equally or stronger position that CW forever is the rule of the day, and joining the ARRL and supporting the ARRL only continues this ancient and antique credo. CW skills are laudable, but not necessary today except under the most primitive conditions. This has been a continuing manifestation of the ARRL's incentive licensing debacle. Many hams today, and editors of major ham publications continue to harp on the ARRL's misguided efforts in the 60's to force license holders to upgrade from class B or General class license to higher license class. The creation of class segregated privileges for the General, Conditional, Advanced and Extra class license holders failed to grandfather those who had already attained the then existent highest class of license. It took away privileges and forced by law, those who wanted to regain their lost operating privileges to face further examination and rote skill development in order to upgrade their licenses.

The lesson of the near demise and stagnant growth period of ham radio in the 60's and 70's because of this major screw up, prompted the ARRL to decide that it is better to take a back door approach and simply sneak into the business of becoming the Administrator of all ARS matters, by selectively establishing legally, standing in a multitude of traditional FCC and Governmental areas. It is doing so to enable itself to become judge, jury, prosecutor, and perhaps license issuer (be determining who can be and who cannot be a repeater owner or a frequency coordinator) and by asking that its enforcement branch (OO) be legally protected from suit (immunity request for participants in the OO program, which by ARRL declaration include the NFCC membership and their hand appointed frequency coordinators).

The ARRL failed to secure similar control of repeaters and FM mode users in the 1970's when the FCC established a long list of onerous regulations with regard to control, monitoring and other facets of FM repeater operation. These were eventually removed from the regulations by the power of the general ham population, embodied by a group of 12 hams, including me, who testified before the FCC en banc in 1973 in docket 18803, before Chairman Wiley and the Commission and effectively argued that the growth of FM and repeaters was being impeded by the rules, and that removal of these onerous, superfluous and useless regulations would encourage growth. History has shown we were right and ARRL was wrong. VHF FM is by far the most popular operating mode in ham radio today, because it was allowed to grow as the ham radio community chose for it to grow. In the same time period, docket 20777 attempted to destroy the growth of amateur television, by limiting emissions in the 420-450 MHz band to narrow modulation techniques. The first ham TV repeater was established in Alexandria Virginia as a Special Temporary Authority (STA) in 1975. By 1978, the restrictions on 97.61c were abolished to allow ham TV repeaters in the 70 cm (420-450 MHz) band. This resulted in a growth in visual communication use, the creation of more than 250 TV repeaters nationwide, and over 10,000 hams have been active in ham TV in the past decade (based on manufacturer sales and magazine subscriptions and club rosters) plus interconnected TV systems, allowing long distance and wide area coverage, and public service efforts well documented by three ham TV magazines, the general ham press, and a White House commendation from President Jimmy Carter for public service provided by ham TV.

Failing in docket 20777, the ARRL has officially recognized state repeater councils and frequency coordinators that follow a practice of discrimination and prejudice, even to the level of interference in

establishing who within a state can be a frequency coordination body. ARRL supports a defunct and dysfunctional Indiana Repeater Council, vs the MISMA selected by a 3:1 margin, by "recognizing" and supporting the surrounding MACC allied states in a boycott and discouragement of cooperation with the elected MISMA Indiana group and refusing to acknowledge, recognize or accept the data and efforts of the locally selected (MISMA) group. However, MISMA's better idea has prevailed to the embarrassment of ARRL and a credit to the efforts of the Indiana group.

Why? Because the MISMA approach is not the ARRL/MACC approach. MISMA was formed by the local grass roots hams, and does not follow the dictates of the MACC/NFCC /SPOC/ARRL to oppose ham TV operation. MISMA is also an example of leadership and how being responsive to an electorate can result in positive changes. Meanwhile, ARRL has a history of being unresponsive to its electorate (ham license holders) and has lost its leadership position and is in its last desperate attempts to survive in a hobby to which it has failed to adapt, encourage and support. ARRL has little support, because ARRL has failed to support the interests of hams. It is as antique as CW and equally immalleable and unadaptable.

These same hobby enjoyments are constantly jeopardized by the ARRL and especially by Dick Isley. [President of MACC and NFCC] who have stated as public policy, the removal of ham TV from the 70 cm band for the sole purpose of establishing more duplicative FM repeater mode systems, each serving less and less operators until each FM mode repeater is the private frequency domain of its owner, to have and to hold in perpetuity as long as it abides by the desires and wishes of Dick Isley W9GIG, the MACC, NFCC SPOC and ARRL. These statements included the complete abolishment of ham TV by the year 2000, the refusal to coordinate TV repeaters, [to delay and frustrate their operation by purposefully coordinating FM and auxiliary links on frequencies that interfere with TV operation], [a suit was filed in Louisiana by a ham TV repeater owner against the local ARRL approved frequency coordinator when the ARRL approved coordinator placed the operation of FM repeaters and FM links directly on the same frequencies used by the TV repeater, similar actions by ARRL approved frequency coordinators in other states have also occurred.] ARRL supports FC that openly refusing to publish TV repeater frequencies in order to encourage interference by uninformed operators, [failing to inform potential users of potential interference to existing users] and active discouragement (by any means) of ham TV activities in order to stifle growth and thus decrease opposition to the take over of the frequencies by Dick Isley and friends for FM mode use. This is substantiated in public documents and cannot be denied without lying.

Thus the ARRL's request for an undefined "good amateur practice" rule of law to be established by declaration of the FCC is nothing but a RUSE and an abuse of the FCC's administrative procedures and long standing practices.

In the combination of the four actions, the instant being the most aggressive and blatant attempt to achieve power for political and financial reasons alone, is nothing but an attempt to deceive the Federal Government, embodied by the FCC, for personal and Corporate gain.

Further, the FCC should dismiss with the upmost prejudice the current ARRL request, and view with the most suspicion and prejudice, further and other attempts by the ARRL to employ subterfuge as the ARRL has done here, to enjoy and be rewarded with more power than three branches of government. The ARRL has shown time and again it cannot be trusted. The ARRL has become as corrupt as the National Administration, and should likely be investigated by the Government for engaging in anti-competitive activities, and financial violations of its non-profit Corporate status on the basis that it is no longer just a benefactor for Amateur Radio, but seeks to become a controlling political entity engaged in rule making,

rule enforcement and adjudication that would provide ARRL and ARRL alone with financial benefit, at the expense of other publishers, corporations and individuals, and would result in reduction of Governmental licensed privileges for all FCC ARS license holders, violate or conflict with State juris, seeks to replace civil juris with Corporate juris actions, [dispute arbitration replacing civil suit with ARRL as the absolute final judge] and seeks Government status of immunity [OO program request for Government staff status for volunteers, thus affording immunity from prosecution in civil matters for official actions] in order to accomplish these **FINANCIAL AND POLITICAL GOALS**, under the guise of organizing ham radio repeaters and frequency management.

In written words of the ARRL chosen NFCC president, we have seen how the ARRL prejudicially selects who can vote [MISMA Exhibit B: Dick Isley discusses how the vote can be stacked to achieve the ARRL/Dick Isley/NFCC goals] who the politically correct are, and who will determine the legal interpretation of the ARRL's rules soon to be promulgated upon the grant of the FCC's instant proceedings: RM 9259.

And while it may seem that these comments are harsh toward the ARRL, it is clearly the actions of a few ARRL staff, executive officers and directors, and Dick Isley who are behind this fiasco, who have the most to gain politically and financially from its completion, and not in the best interests of ham radio as a whole. I echo the words of recently deceased, Senator Barry Goldwater, a ham of world reputation, "extremism in the protection of liberty is no vice." We who oppose the ARRL's attempts to subvert diminish and destroy the privileges granted by FCC license will take all necessary steps to prevent the loss of those privileges. The base issue here is the continued ability of all FCC licensed hams to continue to enjoy the privileges granted to them by their Government upon their demonstration to be FCC license holders, without the homage, taxation and tyranny of a handful of self appointed demigods, gods and "final absolute judge" embodied by the ARRL and their created, funded agency, NFCC, a pseudonym for **Newington Federal Communications Commission**.

Proof of deception strategy:

ARRL's own words, as spoken by their chosen leaders Dick Isley W9GIG and Gary Hendrickson, former FCC staff member:

"The various Klingons and Romulans will eventually pick up the gist of what is said - but by the time they do, the information will either be out of date, discarded, or agreed upon - so that their observations will not carry much weight... I would prefer that the various forms of life discussed above be excluded from the [public] meeting...those entitled to speak will have a prominently displayed ID badge...listing who they are and who they represent." Dick Isley WD9GIG nee W9GIG, President IRC, MACC, NFCC. Ed. Just like the badges issued to citizens in Nazi Germany. A clear effort at deception and subterfuge and lack of candor.

In response to an E-mail from Henry Ruh KB9FO to non FM user groups suggesting that all mode users and user groups file comments on RM9259 Gary Hendrickson former FCC staff engineer writes: "...be sure all local band plans provide for...atv...[for the sole purpose of] so that should the FCC come knocking...we can show that our plan does make provision..." A clear effort at deception and lack of candor. It should be noted that Gary Hendrickson is an official of T-MARC, a FM repeater organization, and while employed as an FCC staff engineer in 1974-1975, was opposed the establishment of the world's first ham TV repeater, WR4AAG, an effort of the Metrovision Ham Radio Club, developed by Bruce Brown WB4YTU/WA9GVK an civilian engineer for the U. S. Navy who holds numerous patents and U. S.

Department of Navy awards for Communication System developments. Gary has been opposed to development and innovation in other non FM modes. Thus even as an FCC employee, he displayed prejudice, bias and was not an impartial, disinterested judge of facts.

Proof of political agendas:

In response to opposition within its own NFCC ranks, Dick Isley attempted to change their base rules on voting in order to press their own agenda. In other words, if their own rules get in the way of winning their political agenda, then change the rules to win. A likely course of action in matters between ARRL sponsored groups and those who oppose or choose not to join the NFCC SPOC ARRL fiasco. In short, even with a stacked deck, NFCC is a bad adjudicator.

Through its publication, QST, the ARRL chose to show "support" for ham TV by publishing a three part series of articles in 1997 while forming the NFCC. The ARRL had an opportunity to publish material by any number of ham TV devotees and manufacturers including those who advertise in QST. Instead, the article were written by the largest manufacturer and supplier of ham TV transmitters to non hams, Super Circuits/North Country Radio. Numerous complaints have been filed with the FCC about Super Circuits advertising ham television transmitters exclusively in non ham publications intended for Hollywood entertainment industry, law enforcement and private detectives. In other words, the ARRL supported a group which has intent to flood the ham bands with non ham users of equipment which was never advertised to hams! ARRL's response to complaints of this was to insult and belittle those who complained. North Country Radio is a company run by two hams who should likely have their licenses revoked for manufacturing, selling and distributing bootleg and illegal radio devices. Yet ARRL openly supported these illegal operations by providing dozens of pages of propaganda for their products.

Proof of financial interests and conflicts:

The NFCC officials stand to gain financially in that their organization would collect tens of thousands of dollars in fees from the multitude of state frequency coordinators, each paying \$100 per year to be "recognized" as FC's. Additional fees would be collected for settlement of disputes, and other services. Clearly, the ARRL stands to gain from the sale of its FM Repeater directory and related materials. Thus there is a clear financial conflict of interest by the petitioning parties. Reason enough for the FCC to say NO.

ARRL/NFCC even supported the interference and denial of an ham TV repeater in the wide open spaces of Wyoming, by supporting the NFCC position saying the "band is full" no room for TV. In Wyoming you would be hard pressed to find ANY activity on 420-450MHz.

And the ARRL has the unmitigated gall to then plead with the ham TV operators to help them show the band is occupied by users to fend off non amateur groups from taking the 420-430 and other band segments away. Further, a study commissioned by the ARRL, and conducted by the ARRL to seek meaningful data on band occupation of frequencies above 420 MHz, FAILED TO SHOW ANY SIGNIFICANT NUMBERS OF OPERATORS ON ANY FREQUENCY BAND ABOVE 148 MHz. This survey was conducted by Bob Bennet of the Baltimore Amateur Television Society and Club, acting in an official ARRL capacity. The report was **SUPPRESSED BY THE ARRL as "unofficial" after completion because it showed the ARRL has LIED on every comment it has filed with the FCC on band occupancy in VHF, UHF and SHF/microwave frequencies and activity was much less than stated by ARRL. The study also showed that ham TV was the second or first most popular use of microwave frequencies. As with 420 MHz operation, TV hams are pioneers in exploration and development of other bands.**

CONCLUSION:

The Federal Government elected officials have established the FCC as our political ombudsman, rule creator and under the due process of law, allows citizens to petition for change, grievance and hearing before an impartial disinterested third party. The ARRL would replace this with ARRL written rules [band plans, spectrum management decision case law, NFCC chosen frequency coordinators, establishment of or displacement of modulation modes and users groups]. The ARRL would replace the FCC with ARRL chosen enforcement officials, ARRL chosen adjudicators, ARRL chosen Rules and Cannons, and ARRL chosen Court. And ARRL would insulate itself from any authority by being the sole and final judge, protected by Government Immunity as a volunteer working as an extension the FCC. [under its previous request for OO status] Yet the ARRL membership consists on less than 20% of all licensed hams, and its own membership is severely divided and being driven from its doors by these acts of treason. The ARRL is seeking to diminish the rights and privileges of all licensed hams. The FCC should dismiss this action, and turn a deaf ear to the ARRL because of its lack of candor in this and related issues. The ARRL does not want a public forum because the ARRL sham is so transparent as to be invisible in the light of public knowledge.

The only possible action to be taken by the FCC is denial with full prejudice of the ARRL's request. And the denial of all related and co-conspiratorial and co-commitment requests by ARRL. No one except the ARRL has anything to gain by a positive action by the Commission. Words alone cannot express the outrage felt by those being excluded from this process by ARRL. Namely those who have had to form national interest groups to protect users of digital, weak signal, and visual modes of communication from an unprecedented abuse of frequency usage by the interests of narrowband FM and FM repeaters and the seeking of financial gain by ARRL for its own purposes at the expense of privileges enjoyed by all FCC licensed hams.

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